

IC 33-30-5

Chapter 5. Practice and Procedure

IC 33-30-5-1

Dockets

Sec. 1. (a) Each judge of a county court shall maintain the following dockets:

- (1) An offenses and violations docket.
 - (2) A small claims docket for the following:
 - (A) All cases where the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of the claim that is over three thousand dollars (\$3,000) to bring the claim within the jurisdiction of the small claims docket.
 - (B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than three thousand dollars (\$3,000).
 - (C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.
 - (3) A plenary docket for all other civil cases.
- (b) This section expires July 1, 2005.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-2

Dockets

Sec. 2. (a) This section applies after June 30, 2005.

(b) Each judge of a county court shall maintain the following dockets:

- (1) An offenses and violations docket.
- (2) A small claims docket for the following:
 - (A) All cases where the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of the claim that is over six thousand dollars (\$6,000) to bring the claim within the jurisdiction of the small claims docket.
 - (B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than six thousand dollars (\$6,000).
 - (C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.
- (3) A plenary docket for all other civil cases.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-3

Practice and procedure

Sec. 3. Except as otherwise provided in this article, the practice

and procedure in a county court shall be as provided by statute and Indiana Rules of Procedure as adopted by the supreme court. However, in cases of the small claims docket, the following exceptions apply:

(1) Defendants are considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance is considered a general denial and preserves all defenses and compulsory counterclaims which may then be presented at the trial of the cause.

(2) If, at the trial of the cause, the court determines that the complaint is so vague and ambiguous that:

(A) the defendant was unable to determine the nature of the plaintiff's claim; or

(B) the plaintiff is surprised by the defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications and offers of compromise.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-4

Change of venue

Sec. 4. Except as provided by statute or by rules of the supreme court, there is not a right to a change of venue from the county in cases in the county court.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-5

Jury trial

Sec. 5. (a) The filing of a small claim in a county court is deemed a waiver of trial by jury.

(b) A defendant may, not later than ten (10) days following service of the complaint, make demand for a trial by jury by affidavit:

(1) stating that there are questions of fact requiring a trial by jury; and

(2) specifying the facts and that the demand is intended in good faith.

(c) The notice of claim or an additional sheet served with the notice of claim on the defendant must clearly state:

(1) the defendant's right to a jury trial; and

(2) the ten (10) day period in which to file for a jury trial.

(d) Upon the deposit of seventy dollars (\$70) in the small claims docket by the defendant, the court shall transfer the claim to the

plenary docket. Upon transfer, the claim shall lose the claim's status as a small claim.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-6

Criminal cases

Sec. 6. With respect to jury trials for criminal cases in a county court, the jury must consist of the number of qualified jurors required by IC 35-37-1-1. When a jury trial is demanded, the county court may call a jury from the list provided and used by the circuit court.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-7

Judgments

Sec. 7. (a) If a court or jury finds against the defendant, the court shall specify the terms and conditions for satisfaction of the judgment. The judgment may be paid in installments.

(b) The judge may stay the issuance of execution and other supplementary process during compliance. The stay may be modified or vacated by the court.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-8

Court of record

Sec. 8. A county court is a court of record.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-9

Judgment docket

Sec. 9. (a) All judgments rendered in civil actions must be properly recorded in the judgment docket book of a county court. Judgments are liens on real estate when the judgment is entered in the county court judgment docket in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

(b) The clerk of the county court shall keep a judgment docket in which judgments must be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

As added by P.L.98-2004, SEC.9.

IC 33-30-5-10

Appeals

Sec. 10. An appeal of a judgment from a county court must be taken:

- (1) in the same manner and under the same rules and statutes;
- and

- (2) with the same assessment of costs;

as cases appealed from a circuit court.

As added by P.L.98-2004, SEC.9.

